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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE

MATTHEW NIESSINK and)	
ROBERTA RASMUSSEN, husband and)	
wife,)	
)	
Plaintiffs,)	
)	
v.)	
)	
WAL-MART and WAL-MART STORES,)	
INC.,)	
)	
Defendant.)	Case No. 3:06-cv-00254 TMB

ANSWER TO COMPLAINT

Defendant Wal-Mart Stores, Inc., by and through counsel, Richmond & Quinn, and for answer to plaintiffs' Complaint admits, denies and alleges as follows:

1. With regard to paragraph 1 of plaintiffs' complaint, defendant, on information and belief, admits the allegations contained therein.

2. With regard to paragraph 2 of plaintiffs' complaint, defendant denies the allegations contained therein.

3. With regard to paragraph 3 of plaintiffs' complaint, defendant Wal-Mart Stores, Inc. is organized under the laws of the state of Arkansas and is doing business in the state of Alaska.

4. With regard to paragraph 4 of plaintiffs' complaint, defendant Wal-Mart Stores, Inc. supplies its stores products. Except to the extent admitted, the remainder of paragraph 4 is denied.

COUNT 1

Defendant realleges and incorporates by reference all of its responses to paragraphs 1 through 4 of plaintiffs' complaint as if fully restated herein.

5. With regard to paragraph 5 of plaintiffs' complaint, defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

6. With regard to paragraph 6 of plaintiffs' complaint, defendant admits that it markets bicycles from time to time offering preassembly and often in right-off-of-the-

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floor condition. Except to the extent admitted, the remainder of paragraph 6 is denied.

7. With regard to paragraph 7 of plaintiffs' complaint, defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein, and Wal-Mart specifically denies any express or implied warranty.

8. With regard to paragraph 8 of plaintiffs' complaint, defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

9. With regard to paragraph 9 of plaintiffs' complaint, defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

10. With regard to paragraph 10 of plaintiffs' complaint, defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

11. With regard to paragraph 11 of plaintiffs' complaint, defendant denies the allegations contained therein.

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12. With regard to paragraph 1 of plaintiffs' complaint, defendant denies the allegations contained therein.

13. With regard to paragraph 13 of plaintiffs' complaint, defendant denies the allegations contained therein.

COUNT II

Defendant realleges and incorporates by reference all of its responses to paragraphs 1 through 13 of plaintiffs' complaint as if fully restated herein.

14. With regard to paragraph 14 of plaintiffs' complaint, defendant admits the allegations contained therein.

15. With regard to paragraph 15 of plaintiffs' complaint, defendant denies the allegations contained therein.

16. With regard to paragraph 16 of plaintiffs' complaint, defendant denies the allegations contained therein.

COUNT II [sic]

Defendant realleges and incorporates by reference all of its responses to paragraphs 1 through 16 of plaintiffs' complaint as if fully restated herein.

17. With regard to paragraph 17 of plaintiffs' complaint, defendant denies the allegations contained therein.

18. With regard to paragraph 18 of plaintiffs' complaint, defendant denies the allegations contained therein.

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AFFIRMATIVE AND ADDITIONAL DEFENSES

By way of further answer and by way of:

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' complaint fails to state a claim for relief.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their damages, if any.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' own conduct was comparatively negligent and such conduct should serve to reduce their damages, if any.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' damages, if any, are a result of the negligence or culpable conduct of others, whether parties to this lawsuit or not; and such conduct should serve to reduce their damages, if any.

FURTHER AFFIRMATIVE DEFENSES

Defendant reserves the right to assert whatever other affirmative defenses and/or counterclaims may become available as discovery progresses.

WHEREFORE, having answered the plaintiffs' complaint, defendant prays that the same be dismissed with

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prejudice; that plaintiffs take nothing from defendant; that defendant be awarded its costs and attorney fees incurred in defending this action; and for such other and further relief as this court deems just and equitable.

DATED this 13th day of February, 2007, Anchorage, Alaska.

RICHMOND & QUINN
Attorneys for Defendant

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 13, 2007 a copy of the foregoing Answer to Complaint was served on the following party by mail:

Richard L. Harren
851 E. Westpoint Dr., Ste. 202
Wasilla, Alaska 99654

/s/ William A. Earnhart
RICHMOND & QUINN

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